

(d) *Quality of water released for mitigation.* The physical, chemical and biological quality of water released for mitigation shall at all times meet the quality required for the purposes listed in § 806.2, as applicable.

(e) *Approval by rule for consumptive uses.* (1) Any project whose sole source of water for consumptive use is a public water supply withdrawal, may be approved under this paragraph (e) in accordance with the following, unless the Commission determines that the project cannot be adequately regulated under this approval by rule:

(i) Notification of Intent: No fewer than 90 days prior to construction or implementation of a project or increase above a previously approved quantity of consumptive use, the project sponsor shall:

(A) Submit a Notice of Intent (NOI) on forms prescribed by the Commission, and the applicable application fee, along with any required attachments.

(B) Send a copy of the NOI to the appropriate agencies of the member state, and to each municipality and county in which the project is located.

(ii) Within 10 days after submittal of an NOI under (i), the project sponsor shall submit to the Commission proof of publication in a newspaper of general circulation in the location of the project, a notice of intent to operate under this permit by rule, which contains a sufficient description of the project, its purposes and its location. This notice shall also contain the address, electronic mail address and telephone number of the Commission.

(2) Metering, daily use monitoring and quarterly reporting. The project sponsor shall comply with metering, daily use monitoring and quarterly reporting as specified in § 806.30.

(3) Standard conditions. The standard conditions set forth in § 806.21 above shall apply to projects approved by rule.

(4) Mitigation. The project sponsor shall comply with mitigation in accordance with § 806.22 (b)(2) or (b)(3).

(5) Compliance with other laws. The project sponsor shall obtain all necessary permits or approvals required for the project from other federal, state or local government agencies having

jurisdiction over the project. The Commission reserves the right to modify, suspend or revoke any approval under this paragraph (e) if the project sponsor fails to obtain or maintain such approvals.

(6) The Commission will grant or deny approval to operate under this approval by rule and will notify the project sponsor of such determination, including the quantity of consumptive use approved.

(7) Approval by rule shall be effective upon written notification from the Commission to the project sponsor, shall expire 15 years from the date of such notification, and shall be deemed to rescind any previous consumptive use approvals.

§ 806.23 Standards for water withdrawals.

(a) The project sponsors of all withdrawals subject to review and approval under § 806.4, § 806.5 or § 806.6 of this part shall comply with the following standards, in addition to those required pursuant to § 806.21.

(b) *Limitations on withdrawals.* (1) The Commission may limit withdrawals to the amount (quantity and rate) of water that is needed to meet the reasonably foreseeable needs of the project sponsor.

(2) The Commission may deny an application, limit or condition an approval to ensure that the withdrawal will not cause significant adverse impacts to the water resources of the basin. The Commission may consider, without limitation, the following in its consideration of adverse impacts: Lowering of groundwater or stream flow levels; rendering competing supplies unreliable; affecting other water uses; causing water quality degradation that may be injurious to any existing or potential water use; affecting fish, wildlife or other living resources or their habitat; causing permanent loss of aquifer storage capacity; or affecting low flow of perennial or intermittent streams.

(3) The Commission may impose limitations or conditions to mitigate impacts, including without limitation:

(i) Limit the quantity, timing or rate of withdrawal or level of drawdown.

(ii) Require the project sponsor to provide, at its own expense, an alternate water supply or other mitigating measures.

(iii) Require the project sponsor to implement and properly maintain special monitoring measures.

(iv) Require the project sponsor to implement and properly maintain stream flow protection measures.

(v) Require the project sponsor to develop and implement an operations plan acceptable to the Commission.

(4) The Commission may require the project sponsor to undertake the following, to ensure its ability to meet its present or reasonably foreseeable water needs from available groundwater or surface water without limitation:

(i) Investigate additional sources or storage options to meet the demand of the project.

(ii) Submit a water resource development plan that shall include, without limitation, sufficient data to address any supply deficiencies, identify alternative water supply options, and support existing and proposed future withdrawals.

§ 806.24 Standards for diversions.

(a) The project sponsors of all diversions subject to review and approval under § 806.4, § 806.5 or § 806.6 of this part shall comply with the following standards.

(b) For projects involving out-of-basin diversions, the following requirements shall apply.

(1) Project sponsors shall:

(i) Demonstrate that they have made good faith efforts to develop and conserve sources of water within the importing basin, and have considered other reasonable alternatives to the diversion.

(ii) Comply with the general standards set forth in §§ 801.3, 806.21, and 806.22, and the applicable requirements of this part relating to consumptive uses and withdrawals.

(2) In deciding whether to approve a proposed diversion out of the basin, the Commission shall also consider and the project sponsor shall provide information related to the following factors:

(i) Any adverse effects and cumulative adverse effects the project may have on the ability of the Susquehanna

River Basin, or any portion thereof, to meet its own present and future water needs.

(ii) The location, amount, timing, purpose and duration of the proposed diversion and how the project will individually and cumulatively affect the flow of any impacted stream or river, and the freshwater inflow of the Chesapeake Bay, including the extent to which any diverted water is being returned to the basin or the bay.

(iii) Whether there is a reasonably foreseeable need for the quantity of water requested by the project sponsor and how that need is measured against reasonably foreseeable needs in the Susquehanna River Basin.

(iv) The amount and location of water being diverted to the Susquehanna River Basin from the importing basin.

(v) The proximity of the project to the Susquehanna River Basin.

(vi) The project sponsor's pre-compact member jurisdiction approvals to withdraw or divert the waters of the basin.

(vii) Historic reliance on sources within the Susquehanna River Basin.

(3) In deciding whether to approve a proposed diversion out of the basin, the Commission may also consider, but is not limited to, the factors set forth in paragraphs (i) through (v) of this paragraph (b)(3). The decision whether to consider the factors in this paragraph (b) and the amount of information required for such consideration, if undertaken, will depend upon the potential for the proposed diversion to have an adverse impact on the ability of the Susquehanna River Basin, or any portion thereof, to meet its own present and future needs.

(i) The impact of the diversion on economic development within the Susquehanna River Basin, the member states or the United States of America.

(ii) The cost and reliability of the diversion versus other alternatives, including certain external costs, such as impacts on the environment or water resources.

(iii) Any policy of the member jurisdictions relating to water resources, growth and development.